

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 138 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

DASHRATHLAL JETHALAL

Versus

VALAND HIRALAL SHIVLAL

Appearance:

MR HR PRAJAPATI for Petitioners
MR AJAY B MANIAR for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 12/09/2000

ORAL JUDGEMENT

Original defendants of Civil Suit No.4213 of 1994 pending on the file of learned Judge of the City Civil Court, Court No. 15, Ahmedabad, have by filing this appeal under O. 104(1) of the C.P.Code read with O. 43 R. 1(r) of the C.P.Code, 1908, challenged the legality

of order dt. 12th January, 1996 passed below Notice of Motion Ex.6 in aforesaid suit.

2. The appellants in this appeal are the original defendants, whereas respondent is the original plaintiff in the aforesaid suit.

3. Looking to impugned order dt. 12th January, 1996 below Notice of Motion Ex.6, the plaintiff's Notice of Motion was allowed and an interim relief in terms of Para 8(A) of said application Ex.6 was granted till final disposal of the suit. Against that order, the original defendants have preferred this appeal.

4. During the course of arguments, Shri H.R.Prajapati, the learned advocate for the appellants submitted that in this appeal, no interim relief has been granted by this Court, meaning thereby the order dt. 12th January, 1996 below Ex. 6 passed by the learned Judge of the trial Court is effective and operative since last four year and half years and in view of this fact, this appeal be disposed of with a suitable directions to the learned Judge of the trial Court.

5. Today, Mr. A.B.Maniar, the learned advocate for the respondent has remained absent. Looking to the submissions made by Mr. Prajapati, the order which is sought from this court by Shri Prajapati would not prejudicial to the original plaintiffs, and therefore, without assigning any reasons in this judgment, this appeal is required to be disposed with suitable directions to the learned Judge of the trial Court.

6. For the foregoing submissions and discussions made hereinabove, this appeal is allowed accordingly with the following directions to the learned Judge of the trial Court:-

(A) The learned Judge of the trial Court shall dispose of Civil Suit No. 4213 of 1994 as early as possible without being influenced by this order.

(B) In the meanwhile, order dt. 12th January, 1996 passed below application Ex. 6 in Civil Suit No. 4213 of 1994 shall remain operative and effective till final disposal of the suit.

There shall be no order as to costs in this Appeal From Order.

Date: 12/9/2000. (H.H.MEHTA,J.)

ccshah